

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 9, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 10HD-164

Hawaii

Grant of Perpetual Non-Exclusive Easement to Time Warner Entertainment Company, L.P. for Telecommunication Transmission Line Purposes, Ponahawai and Waiakea, South Hilo; Kaohe 3rd and 4th, Hamakua, Hawaii, Tax Map Keys: (3) 2-5-01:06 por., 2-5-02:14 por., 2-6-18:04 por., 2-6-18:13 por., 4-4-15:04 por., 4-4-15:08 por., 4-4-16:03 por., 4-4-16:05 por., & 4-4-16:06 por.

APPLICANT:

Time Warner Entertainment Company, L.P., a Delaware limited partnership.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portions of Government lands of Ponahawai and Waiakea situated at South Hilo, Hawaii, and portions of Government lands of Kaohe 3rd and 4th situated at Hamakua, Hawaii, identified by Tax Map Keys: (3) 2-5-01:06 por., 2-5-02:14 por., 2-6-18:04 por., 2-6-18:13 por., 4-4-15:04 por., 4-4-15:08 por., 4-4-16:03 por., 4-4-16:05 por., & 4-4-16:06 por., as shown on the attached maps labeled Exhibit A (easement corridor highlighted in yellow).

AREA:

Easement area: 90.086 acres, more or less.

TMK / ZONING / TRUST LAND STATUS/ ENCUMBRANCES / CURRENT USE:

TMK (3): Portions	State Land Use/ Zoning		Tr. Land Status	Encumbrances/ Current Use Status ¹
	SLU	CZO		
2-5-01:06	Conserva- tion	Unplanned	5(b)	Governor's Proclamation (GP) dated 12/22/1928 for the Hilo Forest Reserve
2-5-02:14	Conserva- tion	Unplanned	5(b)	GP dated 12/22/1928 for the Hilo Forest Reserve
2-6-18:04	Conserva- tion	Unplanned	5(b)	GP dated 1/3/1923 for Hilo Forest Reserve; GL S-5365 to Wailuku River Hydroelectric Ltd. for hydroelectric plant
2-6-18:13	Agriculture	A-40a	5(b)	Executive Order (EO) No. 4361 dated 2/9/2011 to DOFAW for Forest Reserve, Wildlife Preservation and Related Purposes; GL S-4484 to Donn W. Carlsmith (term easement for road purposes)
4-4-15:04	Conserva- tion	Unplanned	5(b)	EO No. 1398 to DOFAW for Public Hunting Ground & Game Reserve
4-4-15:08	Conserva- tion	Unplanned	5(b)	EO No. 1398 to DOFAW for Public Hunting Ground & Game Reserve; GL S-3849 to USA for Pohakuloa Training Area; Saddle Road Improvement Project A-AD-7(1), portions of Parcels 1 & 6
4-4-16:03	Conserva- tion	Unplanned	5(b)	Mauna Kea State Park; GP dated 6/5/1909 as modified by GP dated 5/2/1938 for the Mauna Kea Forest Reserve; GL S-3853 to USA for water lease; GL S-3853a to USA for water line easement
4-4-16:05	Conserva- tion	Unplanned	5(b)	GL S-3849 to USA for Pohakuloa Training Area; GP dated 6/5/1909 as modified by GP dated 5/2/1938 for the Mauna Kea Forest Reserve
4-4-16:06	Conserva- tion	Unplanned	5(b)	GP dated 6/5/1909 as modified by GP dated 5/2/1938 for the Mauna Kea Forest Reserve; GL S-3849 to USA for Pohakuloa Training Area

¹ In addition to any encumbrances shown for the parcels in this column, each parcel has a Hawaii Electric Light Company, Inc. transmission line crossing it, and is encumbered by Land Office Deed No. S-28,756 to Verizon Hawaii, Inc.

None of the above parcels are DHHL 30% entitlement lands pursuant to the Hawaii State Constitution.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove telecommunication transmission lines, poles, guy wires and anchors over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

According to records of the Office of Conservation and Coastal Lands (OCCL), the existing communications and power lines run through lands located in the State Land Use Conservation District, Protective, Resource and General subzones. The Board of Land and Natural Resources previously approved two permits for the existing lines: Conservation District Use Permit (CDUP) No. HA-1554, approved on February 10, 1984, Item H-3, and CDUP HA-1554A, approved on July 24, 1987, Item H-6, for HELCO's transmission line, and CDUP HA-2800, approved on August 9, 1996, Item D-5, for the communication line installed by Verizon Hawaii, Inc. through the subject parcels. By Site Plan Approval HA-11-3 dated August 17, 2010 and authorization letter HA-11-223 dated June 7, 2011, OCCL has determined that the project is an identified land use in the Conservation District pursuant to Hawaii Administrative Rules Section 13-5-23, L-7, Structures, Accessory, (B-1). OCCL further determined that the proposed project is minor in scope and may be considered an exempt action under HAR Section 11-200-8(a)(6), Construction or placement of minor structures accessory to existing facilities. See Exhibits B and C attached.

OCCL has proposed an exemption for this project under Hawaii Revised Statutes, Chapter 343, Environmental Assessments, to the extent it affects lands in the conservation district. Land Division is proposing an Exemption Notification for the

project to the extent it affects the one parcel located in the agricultural district. See Exhibit D attached.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence of Division of Forestry and Wildlife for portions of the easement crossing forest reserves, public hunting grounds and game reserves, and any other lands set aside to DOFAW;
- 2) Obtain written concurrence of the United States of America, lessee under General Lease No. S-3849, for the portions of the easement crossing its leased lands;
- 3) Obtain the written concurrence of Hawaii Electric Light Company, Inc. to the installation of the cable on its utility poles;
- 4) Comply with the conditions of the Office of Conservation and Coastal Lands' Site Plan Approval HA-11-3 dated August 17, 2010 and subsequent authorization letter HA-11-223 dated June 7, 2011, as may be amended from time to time;
- 5) Comply with the permitting requirements and conditions of the State Department of Transportation, Highways Division, to the extent they are applicable to the project; and
- 6) Pay for an appraisal to determine one-time payment, and pay the appraised value in full.

REMARKS:

Applicant Time Warner Entertainment Company, L.P. (Applicant) is requesting a 25-foot-wide perpetual non-exclusive easement over State lands for its cross-island fiber optic cable. The poles on which the cable will be installed are already in place for power lines and a telephone fiber optic cable. No new pole installations or ground disturbances are proposed.

Hawaii Electric Light Company, Inc. (HELCO) has two sets of electric transmission lines and utility poles across the island that generally follow the course of the realigned Saddle Road. The earlier transmission line (69KV) was erected in 1957 before the environmental assessment and conservation district laws came into effect. The later line (138 KV) was erected in 1987 after a Final EIS and pursuant to Conservation District Use Permits HA-1554, HA-1554A, and HA-1904. Easements for these transmission lines and

supporting guy wires and anchors were approved by the Board at its meeting of January 24, 1986, Item F-2, as amended at its meetings of April 12, 1996, Item D-6, July 13, 2001, Item D-7, and November 19, 2004, Item D-8. However, the easement instrument has not issued because HELCO has not provided staff with completed surveys of the transmission lines. Staff continues to communicate with HELCO to determine whether the surveys and easement instrument will be forthcoming.

Additionally, at its meeting of September 27, 1996, Item D-3, the Board approved the issuance of an easement to Verizon Hawaii, Inc. to install a fiber optic cable on the HELCO utility poles. By instrument dated June 14, 2005, the Board issued a perpetual easement to Verizon Hawaii, Inc. under Land Office Deed No. S-28,756 for this purpose.²

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Staff solicited comments on the proposed disposition from the agencies listed below with the results indicated.

Agency	Response
DLNR- DOFAW	No response
DLNR-OCCL	No objections
DLNR-State Parks	No comments
DLNR- Historic Preservation	No response
Department of Transportation – Highways Division	See comments attached as Exhibit E.
Department of Hawaiian Home Lands	No response
Office of Hawaiian Affairs	No response
Planning Department, County of Hawaii	No response
Department of Public Works, County of Hawaii	No response
U.S. Department of Transportation, Federal Highway Administration	No response
U.S. Fish and Wildlife Service	No response
U.S. Army Corps of Engineers	No response

The installation of additional telecommunication lines on the existing HELCO poles has resulted in no known significant impacts, whether immediate or cumulative, to the

² Hawaiian Telcom, Inc. is the successor-in-interest to Verizon Hawaii, Inc.

natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Staff has included Applicant Requirements above that Applicant secure the concurrence of the Division of Forestry and Wildlife (DOFAW) to the grant of the requested easement to the extent it affects land under DOFAW's control and management pursuant to any Governor's proclamations or executive orders, as well as the concurrence of the United States to the extent the easement affects lands leased to it under General Lease No. S-3849.

Applicant's proposed easement alignment appears to cross Saddle Road at several points, and also traverses lands owned by the Department of Hawaiian Home Lands as well as private lands. If the Board approves Applicant's request, the approval will extend only to the subject lands under the Board's jurisdiction. Applicant will need to secure approvals from all other landowners and right-of-way owners to the extent the communications line crosses their lands. In this regard, the State Department of Transportation, Highways Division (DOT) submitted comments to the proposed project that are attached as Exhibit E. DOT notes that there are a number of permitting requirements for work within its right-of-way. Staff has included an Applicant Requirement above that Applicant comply with DOT's permitting requirements and conditions to the extent they are applicable to the project.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Time Warner Entertainment Company, L.P. covering the subject area for telecommunication transmission line purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and

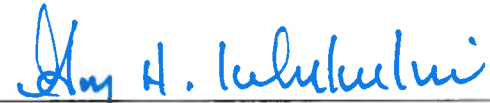
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kevin E. Moore
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

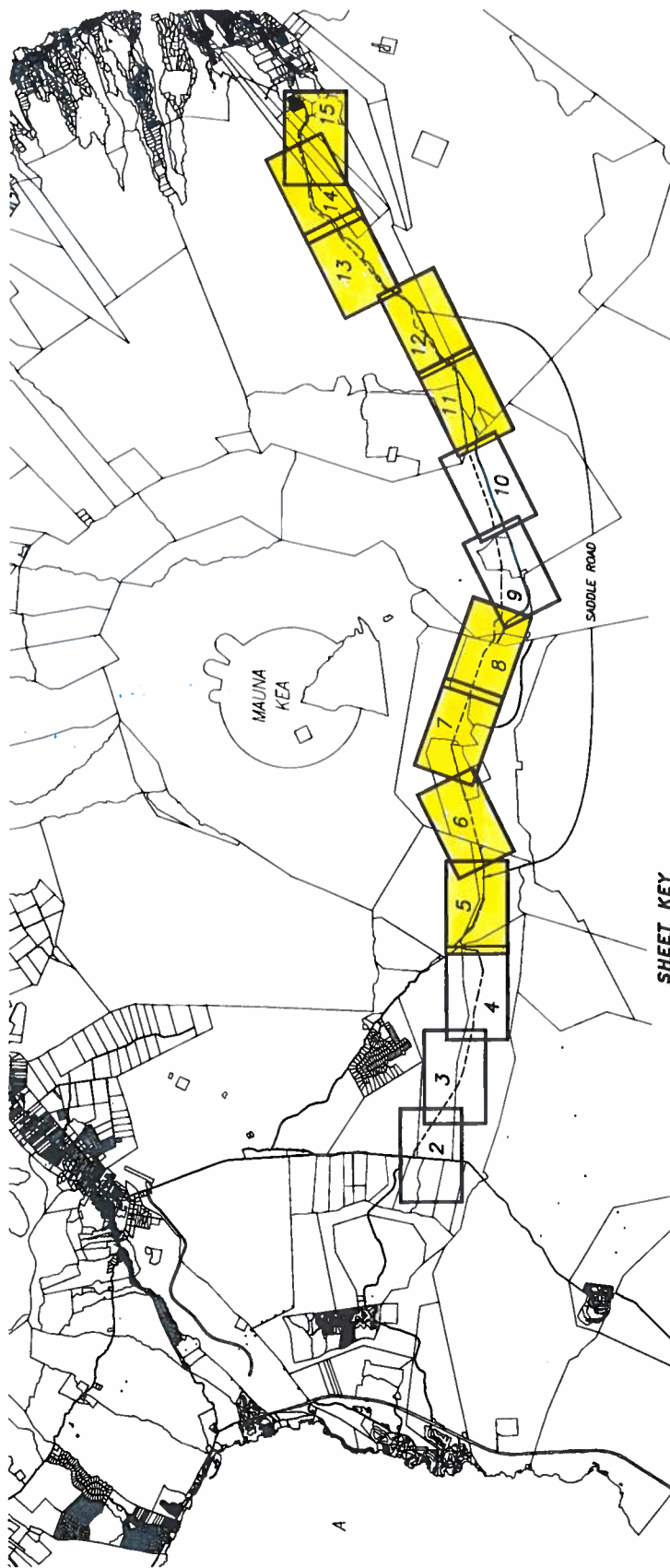


EXHIBIT A

SHEET KEY
APPROXIMATE SCALE: 1 INCH = 10.000 FEET

SHEET INDEX

- | 1. | TITLE SHEET |
|----|--|
| 2. | EASEMENT 1 TO EASEMENT 2 (WAIKOLOA) |
| 3. | EASEMENT 2 TO EASEMENT 3 (WAIKOLOA) |
| 4. | EASEMENT 3 TO EASEMENT 4 (WAIKOLOA) |
| 5. | EASEMENT 4 TO EASEMENT 6 (WAIKOLOA-KAOHE 3RD) |
| 6. | EASEMENT 6 TO EASEMENT 10 (KAOHE 3RD-KAOHE 4TH) |
| 7. | EASEMENT 10 TO EASEMENT 12 (KAOHE 4TH) |
| 8. | EASEMENT 12 TO EASEMENT 14 (KAOHE 4TH-HUMUULA) |
| 9. | EASEMENT 14 TO EASEMENT 18 (HUMUULA) |
| 0. | EASEMENT 18 (HUMUULA) |
| 1. | EASEMENT 19 TO EASEMENT 20 (PIIHONUA) |
| 2. | EASEMENT 20 (PIIHONUA) |
| 3. | EASEMENT 20 (PIIHONUA) |
| 4. | EASEMENT 20 (PIIHONUA) |
| 5. | EASEMENT 21 TO EASEMENT 26 (PUNAHOA 2ND-PONOHAWAI) |

NOTES:

1. For Equipment 1 to Equipment 20, Azimuths and coordinates are referred to Government Survey Triangulation Station "DANVILLE".

2. For Comment 21 to Element 26, *Achutha and coauthors* are referred to Government Survey Triangulation Station "MHU".

MAP SHOWING
PERPETUAL NON-EXCLUSIVE
UTILITY EASEMENTS 1 THRU 26, INCLUSIVE
(25 FT. WIDE)

IN FAVOR OF OCEANIC TIME WARNER CABLE OF HAWAII

At Waikoloa, South Kohala,
Kaohe 3rd Section B and 4th, Hamakua,
Hurmuula, North Hilo,
Piipihonua, Punaohia 2nd and Punaohawai, South Hilo,
Island and County of Hawaii, State of Hawaii

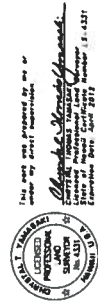
Tax Map Key (3rd Division):
 2-5-001:006, 007, 012, 013,
 2-5-002:014,
 2-6-018:004, 013,
 3-8-001:007, 019, 022,
 4-4-015:004, 008,
 4-4-016:003, 005,
 6-7-001:041, 042 AND, 045



Prepared For:
OCEANIC TIME INSURANCE CO. OF HAWAII
73-4878 Kamehameha Street
Honolulu, Hawaii 96814

WES THOMAS ASSOCIATES
Land Surveyors
75-5475 Kelson Street
Kahala-Country, Hawaii 96703-1817
TEL. (808) 279-2583
FAX (808) 279-5131 Email: wes@wes-thomas.com

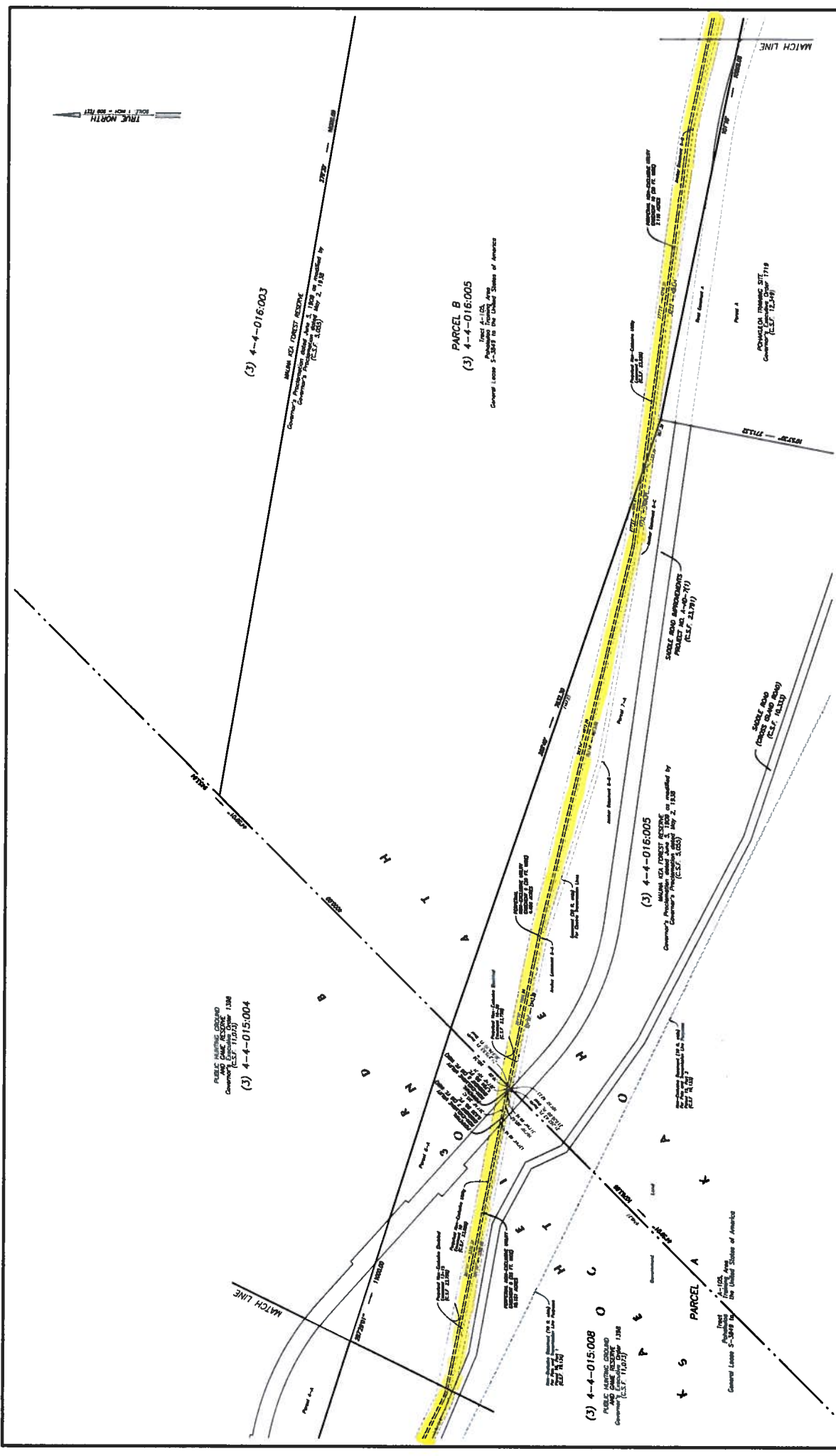
PROJECT NO. 18261
DATE: MAY 13, 2011
REVISED: JULY 14, 2011 (ADDED SHEET 15)
SHEET 1 OF 15



PROJECT NO. 12261
DESIGNED BY Michael S. Staudacher
CHECKED BY [Signature]
DATE 12/15/2011
REVISION: JULY 14, 2011 (ADDED SHEET 15)
SHEET 6 OF 15

Prepared by
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MAP SHOWING
EASEMENTS IN FAVOR OF
OCEANIC TIME WARNER CABLE OF HAWAII
Island and County of Hawaii, State of Hawaii



(3) 4-4-016:003

PARCEL B
(3) 4-4-016:005

PUBLIC MARINE GROUND
AND SAND RESERVE
Comment: (C.S.F. 11.03)
(3) 4-4-015:004

(3) 4-4-015:008
PUBLIC MARINE GROUND
AND SAND RESERVE
Comment: (C.S.F. 11.03)

(3) 4-4-016:005
MILWAUKEE FOREST RESERVE
Comment: (C.S.F. 11.03)

POMEROY TRAILING SITE
Comment: (C.S.F. 12.18)



(3) 4-4-016:003

K A O H E A T H

PARCEL B
(3) 4-4-016:005

Parcel B-100
Proposed for 100' Ave
General Lease S-3049 to the United States of America

PARCEL A
(3) 4-4-016:005

Parcel A-100
Proposed for 100' Ave
General Lease S-3049 to the United States of America

PARCEL C
(3) 4-4-016:005

Parcel C-100
Proposed for 100' Ave
General Lease S-3049 to the United States of America

MAP SHOWING
EASEMENTS IN FAVOR OF
OCEANIC TIME WARNER CABLE OF HAWAII
Island and County of Hawaii, State of Hawaii

SCALE IN FEET

Prepared By:
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Honolulu, Hawaii 96817
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www.thomasassociates.com

PROJECT NO. 10261
DATE: 11/13/2011
REVISED: 11/14/2011 (ADD SHEET 15)
SHEET 7 OF 15



This map was prepared by me or under my direct supervision
Michael J. Thomas
Professional Engineer
State of Hawaii License No. 10261
Expiration Date: April 2013



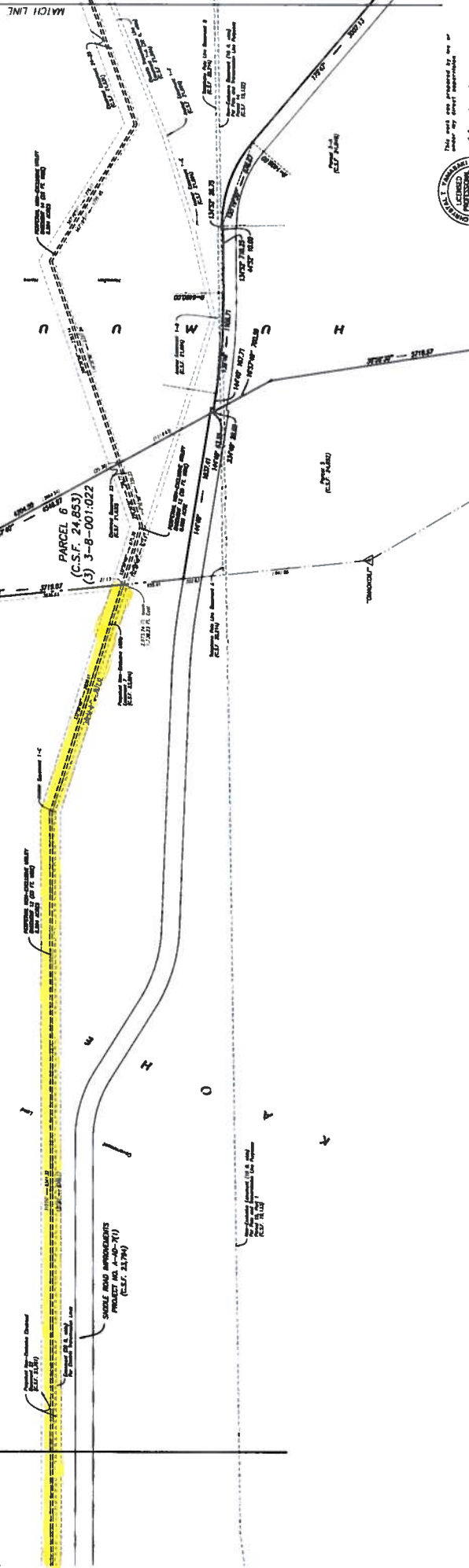
(3) 4-4-016.003

MAUNA KEA FOREST RESERVE
Conservation Plan
C.S.F. 24,850

PARCEL C
(3) 4-4-016.005

General Limit 5-2019 to the State of Hawaii

PARCEL 3-B
(C.S.F. 24,850)
(3) 3-B-001.007



MAP SHOWING
EASEMENTS IN FAVOR OF
OCEANIC TIME WARNER CABLE OF HAWAII
Island and County of Hawaii, State of Hawaii



This map was prepared by me or under my direct supervision

Mark A. Kessler
Professional Engineer
State of Hawaii
License No. 15,121

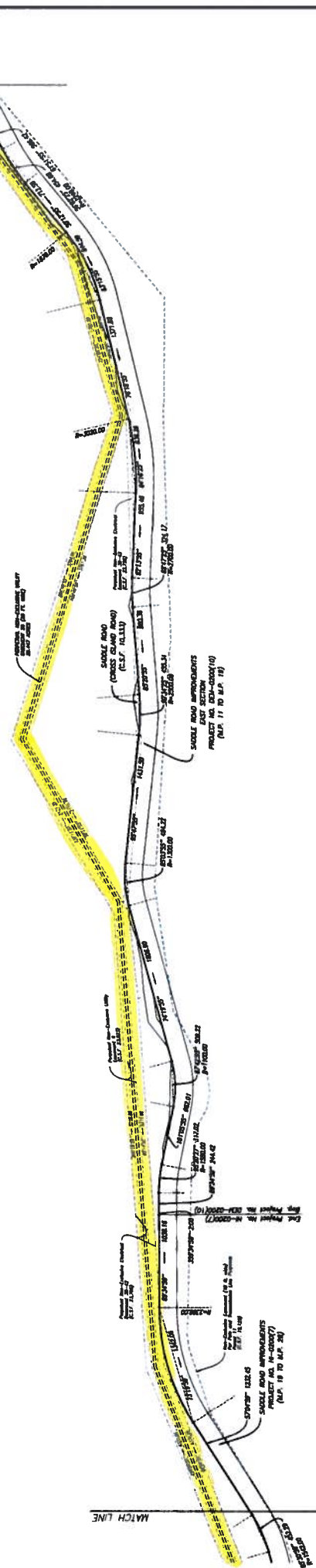
Prepared by
WEE THOMAS ASSOCIATES
75-574 Kamehameha Blvd.
Suite 200, Honolulu, HI 96813
Tel: (808) 525-1111 Fax: (808) 525-1112

PROJECT NO. 12651
DATE: JULY 1, 2011
REVISED: JULY 14, 2011 (ADDED SHEET 15)
SHEET 8 OF 15

TRUE NORTH
1" = 100' (1:12,500)

HILO FOREST RESERVE
C.S.F. 18.835
(3) 2-6-018-004

P I I I H O N U A



W A I A K E A

MAP SHOWING EASEMENTS IN FAVOR OF OCEANIC TIME WARNER CABLE OF HAWAII Island and County of Hawaii, State of Hawaii



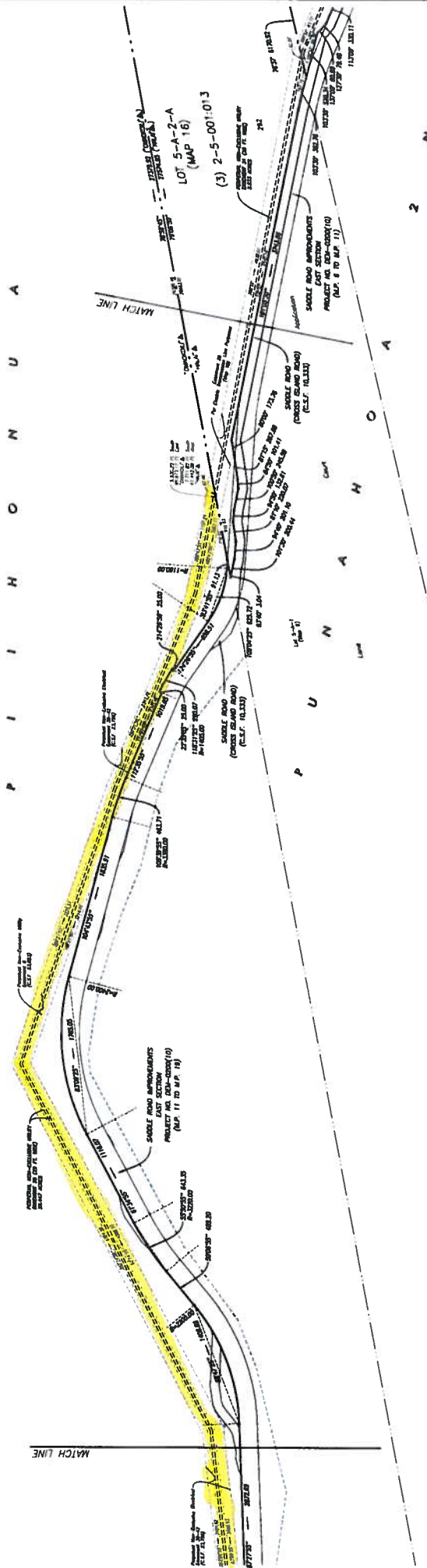
THIS WORK WAS PREPARED BY ME OR
UNDER MY DIRECT SUPERVISION
DATE: JULY 14, 2011
PROJECT NO. 2011-0001
SHEET 12 OF 15

PROJECT NO. 2011-0001
DATE: JULY 14, 2011
SHEET 12 OF 15

WES THOMAS ASSOCIATES
P.C.
1000 KALANIANA'OLA BLVD., SUITE 100
HONOLULU, HI 96813
TEL: (808) 251-1111 FAX: (808) 251-1112
WWW.WESTHOMAS.COM



HILO CLOSED WATERSHED
(C.S.F. 18,835)
(J) 2-6-018:004



MAP SHOWING
EASEMENTS IN FAVOR OF
OCEANIC TIME WARNER CABLE OF HAWAII
Island and County of Hawaii, State of Hawaii

This card was prepared by me
under my direct supervision

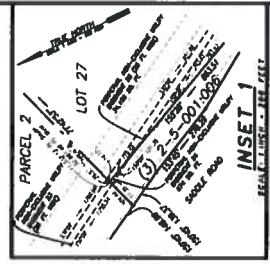
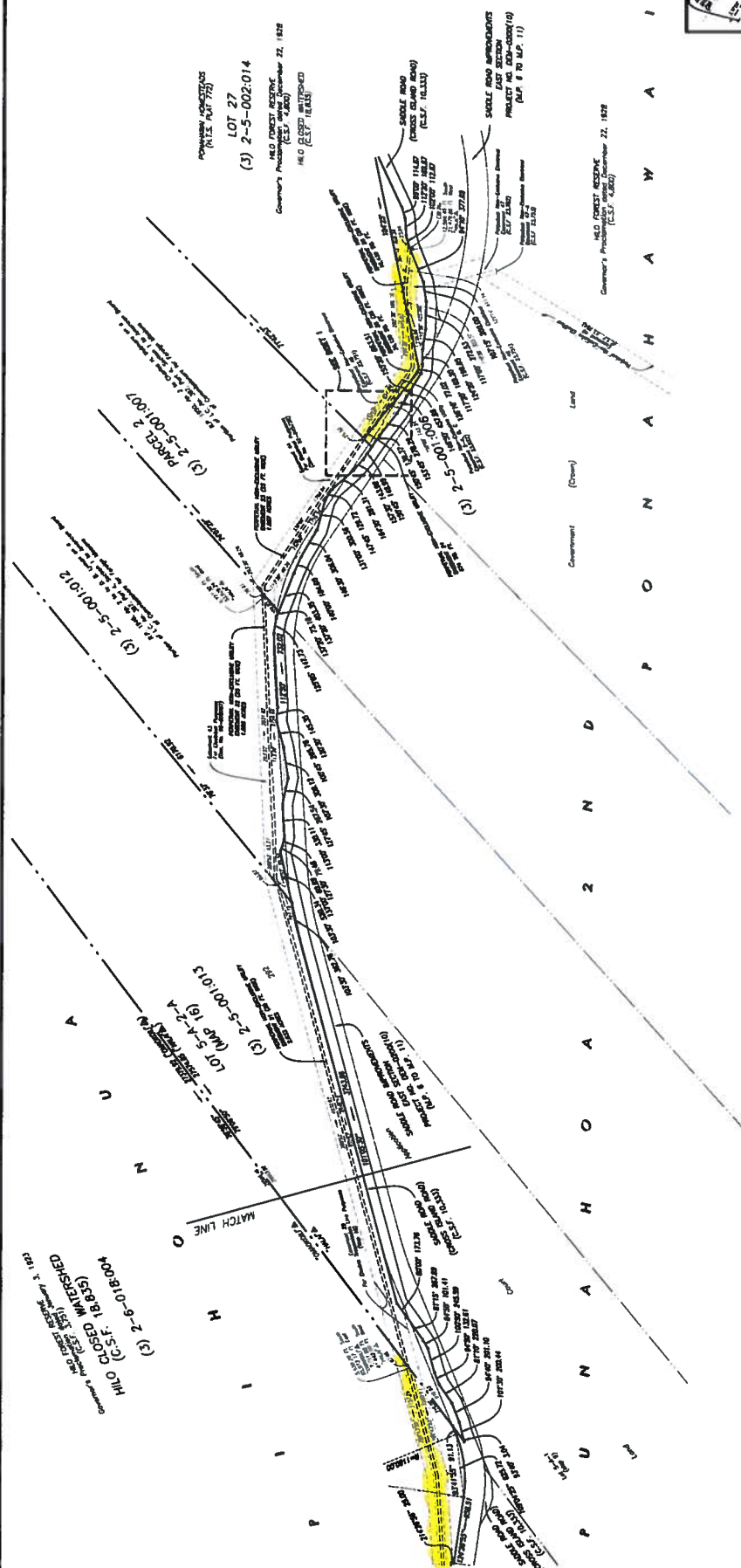
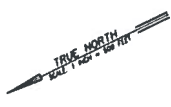
Charles H. VandeGriend
 CHARLES H. VANDEGRIED
 Licensed Professional Land Surveyor
 State of New York Certificate Number 15-4221
 Expiration Date April 2012

CHAMPLAIN TOWNSHIRE
 LICENSED
 PROFESSIONAL
 JACO
 SURVEYOR
 No. 4313
 N.Y.S.D.
 NEW YORK

PROJECT NO. 18261
DATE MAY 13, 2011
REVISED: JULY 14, 2011 (ADDED SHEET 15)
SHEET 14 OF 15

Prepared By:
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— Land Surveyors —
75-5748 Kubeck Street
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TEL (616) 379-2333
FAX (616) 379-3334 E-MAIL survey@webt.com





This map was prepared by me or under my direct supervision.
Michael J. Kneale
Surveyor General
State of Hawaii
Commission Expires: December 31, 2011

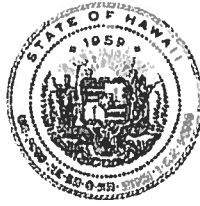
MAP SHOWING
EASEMENTS IN FAVOR OF
OCEANIC TIME WARNER CABLE OF HAWAII
Island and County of Hawaii, State of Hawaii



PROJECT NO. 15851
DATE: MAY 13, 2011
REVISED: JULY 14, 2011 (ADDED SHEET 15)
SHEET 15 OF 15

Prepared by:
WEB THOMAS LEROCHIA TER
2500 Kalia Road, Suite 100
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Tel: (808) 225-5111 Fax: (808) 225-5112

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

RECEIVED

AUG 18 2010

dya

LAURA H. THIELEN

CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL V. TSUJI
ACTING DEPUTY

LENORE N. OHYE
ACTING DEPUTY DIRECTOR - WATER

ADJUTANT RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES TECHNOLOGY
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIROUAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:AB

Dean Uchida
SSFM International
501 Sumner Street, Suite 620
Honolulu, Hawai'i 96817

FILE COPY

SPA HA-11-3

AUG 17 2010

SUBJECT: Site Plan Approval for the Installation of a Telecommunication Cable along Saddle Road between Hilo and Waikoloa, Hawai'i, TMKs: (3) 2-5-001:006, 2-5-002:14, 2-6-018:004, 4-4-16, 4-4-15:2, and 4-4-15:004

Dear Mr. Uchida:

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) has reviewed the information you provided on your project to install fiber optic cable along Saddle Road between Hilo and Waikoloa, Hawai'i, TMKs: (3) 2-5-001:006, 2-5-002:14, 2-6-018:004, 4-4-16, 4-4-15:2, and 4-4-15:004.

According to your information, Oceanic proposed to install their cable line on existing HELCO poles within existing easements. No new pole installations or ground disturbances are proposed.

ANALYSIS:

According to our records, the existing communication line runs through lands located in the State Land Use Conservation District, Protective, Resource, and General subzones. There is an existing Conservation District Use Permit (CDUP) HA-2800 for the communication line, approved on August 9, 1996 for GTE Hawaiian Tel's communication line.

The proposed project is an identified land use in the Conservation District pursuant to Hawai'i Administrative Rules (HAR) §13-5-23 *Identified Land Uses in the Limited Subzone, L-7, STRUCTURES, ACCESSORY, (B-1), Construction or placement of structures accessory to an existing structure, building, or facility under an existing conservation district use permit. Accessory uses shall be allowed only if they are consistent with the purpose of the conservation district.*

Staff has determined that the proposed project is minor in scope and may be considered an exempt action under HAR Section 11-200-8(a)(6), *Construction or placement of minor structures accessory to existing facilities.*

EXHIBIT B

The OCCL has no objections to granting a Site Plan Approval for this request. Site Plan Approval authorization is hereby granted for the proposed installation of fiber optic cable along Saddle Road between Hilo and Waikoloa, Hawai'i, TMKs: (3) 2-5-001:006, 2-5-002:14, 2-6-018:004, 4-4-16, 4-4-15:2, and 4-4-15:004, subject to the following terms and conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the Federal, State, and County governments, and applicable parts of Chapter 13-5, HAR;
2. The applicant shall obtain appropriate authorization from the Department's Land Division for the occupancy of State lands;
3. The applicant shall consult with the Department's Division of Forestry and Wildlife (DOFAW) regarding a fire contingency plan because fire is a concern in this area;
4. The applicant, its successors, and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
5. The applicant understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
6. In issuing the approval, the Department has relied on the information and data which the applicant has provided. If, subsequent to the issuance of the approval, such information and data prove to be false, incomplete, or inaccurate, this approval may be modified, suspended, or revoked, in whole or in part, and the Department may, in addition, institute appropriate legal proceedings;
7. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard; and
8. Failure to comply with any of these conditions shall render this approval void.


Please acknowledge receipt of this letter, with the above noted conditions, in the space provided below. Please sign two copies, retain one and return one copy to OCCL **within 30 days**. Should you have any questions, you may contact Audrey Barker of OCCL at 587-0377 or audrey.t.barker@hawaii.gov.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Samuel J. Lemmo', is written over the word 'Sincerely,' and extends into the space below it.

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

I concur with the conditions of this approval:


Applicant Signature

August 24, 2010
Date

c: Chairperson
HDLO/DOCARE/DOFAW/SHPD
DHHL
U.S. Army Corps of Engineers
Hawai'i Planning Department

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

Correspondence: HA 11-223

Dean Uchida
SSFM International
501 Sumner Street, Suite 620
Honolulu, HI 96817

JUN - 7 2011

SUBJECT: Proposed Installation of a Telecommunication Cable on an Existing Alignment
Located Near the Vicinity of Saddle Road, Island of Hawaii, TMK: (3) 4-4-15:
004 & 008

The Office of Conservation and Coastal Lands (OCCL) is in receipt of your correspondence regarding the securing of the necessary easements and approvals for a proposed fiber optic cable by Oceanic Time Warner Cable (OTWC) along Saddle Road between Hilo and Waikaloa. The proposed cable is to be placed on an existing HELCO alignment that consists of poles and lines. No ground disturbance, construction or new pole installation is proposed.

A Site Plan Approval was recently gained for a portion of the alignment over the existing Verizon easement under Conservation District Use Permit (CDUP) HA-2800. To continue the alignment, further authorization is required over an existing HELCO alignment. Staff notes the existing HELCO alignment and Right of Entry was approved by the Board via CDUP HA-1554 for the Kaunam-Kuamuku Transmission Line on February 10, 1984.

The subject area lies within the Resource and Protective subzone of the Conservation District. As there is no ground disturbance, the OCCL has no objections to your request to add the fiber optic cable to the existing HELCO facility located near the vicinity of Saddle Road, island of Hawaii, TMK: (3) 4-4-15: 004 & 008 provided that the following terms and conditions are adhered to:

1. That in issuing this letter, the Department and Board has relied on the information and data that has been provided in connection with this letter. If, subsequent to this letter, such information and data prove to be false, incomplete or inaccurate, this letter may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
2. At the conclusion of work, the area shall be cleaned of all construction material and the site shall be restored to a condition acceptable to the Chairperson;

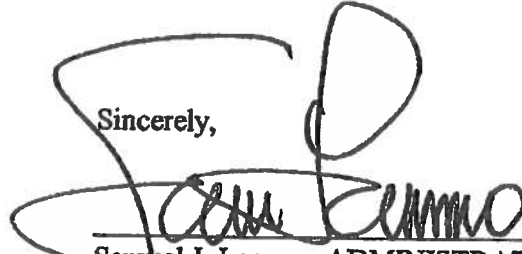
EXHIBIT C

3. The activity/use shall not adversely affect a Federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
4. A land disposition shall be sought from the Hawaii District Land Office for the occupancy of State lands;
5. HELCO shall be notified of the co-location of the proposed cable;
6. When the Chairperson is notified by OTWC or the public that an individual activity deviates from the scope of the activity/uses, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the OTWC to undertake corrective measures to address the condition affecting these resources. OTWC must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
7. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the Environmental Protection Agency or a Division of the State Department of Land and Natural Resources that an individual activity/use or activities conducted under this letter is adversely affecting wildlife resources or their harvest, the Chairperson will direct OTWC to undertake corrective measures to address the condition affecting these resources. OTWC must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
8. Where any interference, nuisance, or harm may be caused, or hazard established by the authorized activities/uses, OTWC shall be required to take measures to minimize or eliminate the interference, nuisance, harm or hazard;
9. OTWC shall consult with the Department's Division of Forestry and Wildlife (DOFAW) regarding a fire contingency plan;
10. OTWC, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant(s), its successors, assigns, officers, employees, contractors, and agents under projects authorized under this letter;
11. OTWC shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments for authorized projects;
12. In the event that historic sites, including human burials are uncovered during construction activities, all work in the vicinity must stop and the State Historic Preservation Division contacted at (808) 692-8015;
13. OTWC shall take measures to ensure that the public is adequately informed of the project activities/work once it is initiated and the need to avoid the project area during the operation;

14. The applicant(s) shall implement standard Best Management Practices (BMPs), including the ability to contain and clean up fuel; fluid or oil spills immediately for activities/uses .


Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within 30 days. Should you have any questions, please feel free to contact Tiger Mills of our Office of Conservation and Coastal Lands at 587-0382.

Sincerely,



Samuel J. Lemmo, ADMINISTRATOR
Office of Conservation and Coastal Lands

I concur with the conditions of this letter:

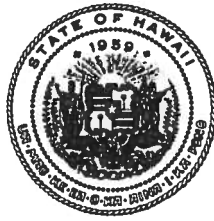


Norman P. Santos
Oceanic Times Warner Cable Representative
V.P. OPERATIONS

Date 6-8-11

C: Chairperson
HDLO/DOCARE/DOFAW
County of Hawaii, Planning Dept.
HELCO

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Grant of Perpetual Non-Exclusive Easement to Time Warner Entertainment Company, L.P. for Telecommunication Transmission Line Purposes

Project Number: PSF No. 10HD-164

Project Location: Ponahawai and Waiakea, South Hilo; Kaohe 3rd and 4th, Hamakua, Hawaii, Tax Map Keys: (3) 2-5-01:06 por., 2-5-02:14 por., 2-6-18:04 por., 2-6-18:13 por., 4-4-15:04 por., 4-4-15:08 por., 4-4-16:03 por., 4-4-16:05 por., & 4-4-16:06 por.

Project Description: Grant easement to applicant to install cross-island fiber optic cable on existing utility poles

Consulted Parties: Office of Conservation and Coastal Lands; Division of Forestry and Wildlife; Department of Transportation, Highways Division

Exemption Class No.: In accordance with Hawaii Administrative Rules, Environmental Impact Statement Rules, § 11-200-8(a)(6), the Office of Conservation and Coastal Lands has determined that the proposed action is exempt from HRS Chapter 343 because it involves the "Construction or placement of minor structures accessory to existing facilities."

Additionally, for Tax Map Key: (3) 2-6-18:13, which is located in the agricultural district instead of the conservation district, Land Division is proposing an exemption under the "Division of Land

EXHIBIT D

Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, and specifically the following:

Exemption Class No. 1, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

**Exemption Item No.
And Description:**

The proposed exemptions are appropriate because the applicant Time Warner Entertainment Company, L.P. (Applicant) is requesting an easement to install a telecommunications fiber optic cable on an existing utility pole alignment owned by the Hawaii Electric Light Company, Inc. (HELCO). No new pole installations or ground disturbances are proposed. The Office of Conservation and Coastal Lands has determined that the installation of Applicant's cable is minor in scope as the construction or placement of a minor structure accessory to the existing HELCO facilities.

For the agricultural parcel, Land Division has determined that the addition of a new fiber optic cable involves a negligible expansion of an existing use. The installation of an additional cable on an existing utility pole alignment will result in no material change or significant cumulative impact. If further actions are taken that result in a material change, Applicant will be required to be in compliance with Chapter 343.

Recommendation:

It is recommended that the Board find that the issuance of an easement to Applicant for its cable will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

for *W. J. Aila, Jr.*
William J. Aila, Jr., Chairperson
B.17.11
Date

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
PLANNING BRANCH
HIGHWAYS DIVISION

MEMORANDUM

HWY-PS
2.9233

TO: CHRIS YAMAMOTO, HWY-RM DATE: AUGUST 3, 2011

FROM: KEN K. TATSUGUCHI, HWY-P *Ken K. Tatsuguchi*

SUBJECT: DLNR REQUESTING COMMENTS FOR GRANT OF PERPETUAL
EASEMENT FOR OCEANIC TIME WARNER ENTERTAINMENT
COMPANY TO INSTALL FIBER OPTIC CABLE ALONG SADDLE ROAD
BETWEEN HILO AND WAIKOLOA, TMK: (3) 2-5-001: 006, (3) 2-5-002: 014,
(3) 2-6-018: 004, (3) 4-4-016, (3) 4-4-015: 002 and (3) 4-4-015: 004

We have the following comments:

1. We have no objections to the subject request, since the applicant's fiber optic cable will be installed on existing poles and there are no significant ground disturbances that will occur.
2. Applicant should be informed of our long range plan to reconstruct the existing two-lane Saddle Road from Hilo to Mauna Kea Access Road and to construct a new two-lane highway from Mauna Kea Access Road to Mamalahoa Highway in the Waikoloa area
3. Applicant must submit plans for all work done within our State highway right-of-way. The telecommunication lines will be crossing Saddle Road at several points.
4. Applicant should be informed that a permit is required from Highways Division to transport oversized and overweight equipments/loads within our State highway facilities.

c: HWY-PS (11-185)

FC:ac


EXHIBIT E

INITIAL
May 18/14
ay - RM

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
HAWAII DISTRICT
MEMORANDUM**

TO: Richard Ching, HWY-RP HWY-H 11-2.0301
DATE: August 4, 2011

ATTN: Chris M. Yamamoto

FROM: Salvador Panem, Hawai'i District Engineer 

SUBJECT: Time Warner Entertainment Company, L.P. -- Request for Perpetual Access
Easement for Telecommunication Transmission Line Purposes
Saddle Road, Route 200
T.M.K. (3) 2-5-001:006 por., 2-5-002:014 por., 2-6-018:004 por., 2-6-018:013
por., 4-4-015:004 por., 4-4-016:003 por., 4-4-016:006 por.
Ponahawai and Waiakea - South Hilo, Kaohe 3rd and 4th - Hamakua, Hawai'i,
Island of Hawai'i

The information provided is insufficient in detail and at such a large scale as it is not possible to accurately determine the location of accesses for the proposed work.

We recommend the following conditions be added:

1. A sight distance study for the location of the proposed easement roadway accesses shall be done prior to construction plan preparation. HRS 264-14 requires the vehicle access within the highway right-of-way be paved.
2. Construction plans prepared by an engineer licensed in the State of Hawaii for the proposed easement roadway access driveway connections shall be submitted for our review and approval. These plans shall include proposed traffic control for each phase of work when within and or affecting the highway right of way.
3. The applicant's construction contractor shall be required to obtain an approved Application & Permit for the Occupancy and Use of State Highway Right-Of-Way and/or a Permit to Perform Work Upon State Highways.
4. Equipment and material storage and staging areas shall comply with the National Pollution Discharge and Elimination System (NPDES) permit requirements and Best Management Practice measures shall be installed.

INITIAL
RCH 8/9/11
-RM

Richard Ching, HWY-RP
August 4, 2011
Page 2

HWY-H 11-2.0301

5. Highway improvements required from the plans submitted shall be provided at no cost to the State and shall conform to Hawaii Statewide Uniform Design Manual for Streets and Highways, 2004 AASHTO A Policy on Geometric Design of Highways and Streets, 2002 AASHTO Roadside Design Guide, 2005 Hawaii Standard Specifications for Road and Bridge Construction, and the Specifications for Installation of Miscellaneous Improvements within State Highways.
6. The applicant shall also agree to and be bound by the conditions placed on the construction and development of the roadway including the preservation of rare and endangered species, important archaeological/historical sites, repair of vegetated swales, and honor all commitments made for mitigation measures required as enumerated under the Final Environmental Impact Statements for the Saddle Road project.
7. Applicant shall provide coordinated communication regarding work schedule and progress to all affected parties including PTA and public notices for work affecting traffic such as lane closures.

If you have any questions or require additional information, please call Mr. Robert Taira at 933-0498.

CY:sk

cc: HWY-HE